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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,659	03/17/2004	William Charles Collard	COLLARD ET AL.- 1	2658
25889	7590	07/23/2004	EXAMINER	
WILLIAM COLLARD COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			SUHOL, DMITRY	
			ART UNIT	PAPER NUMBER
			3712	

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/708,659

Applicant(s)

COLLARD ET AL.

Examiner

Dmitry Suhol

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Claim Objections***

Claims 5, 15, 18 is objected to because of the following informalities:

Claims 5 and 15 are missing a period at the end.

Claim 18 reads "...a plurality of curtains with at one curtain...". It should read "...with at *least* one curtain...".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, 6, 8-12, 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 2, the metes and bounds of the claim can't be determined due to the phrase "...puppet is coupled to said via said string". It is unclear what the applicants are claiming that the puppet is coupled to. For purposes of examination it is assumed that applicants intend to claim that the puppet is coupled to the book via the string.

Regarding claim 6, the structural features encompassed by the phrase "...said front cover and said back cover together..." can't be determined. It is unclear what features are being claimed by the above phrase.

Regarding claims 8-9, there is no antecedent basis for "said front cover".

Regarding claim 14, it is unclear if applicants are referencing the finger puppets of claim 13 (or finger puppets separate from them) due to the term "separate".

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Solomon '521. Solomon discloses a device containing all of the elements of the claims including with reference to claim 1, a book (11), a container coupled to the book (pocket 41) and a puppet coupled to the book (puppet 21). A string, as required by claim 2, is shown as string (27). At least one additional puppet and at least one string, as required by claim 15, are shown as additional puppets (22-26) and strings (27).

Claims 1, 16-19 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Avital '093. Avital discloses a device for telling stories containing all of the elements of the claims including with respect to claim 1, a book (14), a container coupled to the book (panel 30 as shown in figure 2) and a puppet coupled to the book (puppet 44), where it is considered that the puppet is coupled to the book through panel 30 (as shown in figure 2). An extension in the form of a stage coupled to the book, as required by claim 16, is shown as stage (12) in figures 1 and 4b. A stage comprising a bottom section (32), at least one side (24 and 26) and a top section (50), as required by claim 17, is shown in figure 1. A plurality of curtains, as required by claim 18, are shown as elements 70 and described in col. 7, lines 29-40. A front and back cover, as required by claim 19, are shown as cover portion 20 and the attachment between them and the stage (through panel 30) is shown in figure 2 and described in col. 4, lines 38-41. The bottom section and the top section having a fold so that the stage can be folded over, as required by claim 21, is shown in by the edges of figures 1-3 as such as edges 28d and 28c.

Claims 1, 13-14, 16 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Gemma '456. Gemma discloses a device for telling stories containing all of the elements of the claims including with respect to claim 1, a book (11), a container coupled to the book (box 1) and a puppet (8) coupled to the book, where it is considered that the puppet is coupled to the book through box 1 (as shown in figure 1). The puppet being in the form of a glove containing at least two finger puppets, as required by claim

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13, is shown as glove (4) in figure 4 and in finger puppets (10) in figure 3. Puppets relating to a story from the book, as required by claim 14, are described in col. 3, lines 46-49. An extension in the form of a stage, as required by claim 16, is shown as stage 13 in figure 1. A stage comprising a bottom section, at least one side and a top section, as required by claim 17, is shown in figure 1. A book comprising a front and back cover, as required by claim 20, is inherent in the book and wherein the stage is coupled to the back cover of the book, as also required by claim 20, is described in col. 3, lines 62-64.

Claims 1-4 rejected under 35 U.S.C. 102(b) as being anticipated by Cabrera et al '028. Cabrera discloses a device containing all of the elements of the claims including with reference to claim 1, a book (50), a container coupled to the book (106) and a puppet coupled to the book (puppet 107). A string, cable and cord, as required by claims 2, 3, 4, respectively, are shown as element (155) and described in col. 4, lines 47-51.

Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Castleman '364. Castleman discloses a book and puppet combination containing all of the elements of the claims including with reference to claim 1, a book (figures 1 and 2), a container coupled to the book (pocket 14), a puppet coupled to the book (puppet 24). A container being in the form of a pouch coupled to the inside face of the front cover, as required by claim 8, is shown in figure 2, as pocket 14 coupled to front cover 12.

Claims 1 and 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Dana et al '355. Dana discloses a book and puppet combination containing all of the elements of the claims including with reference to claim 1, a book (30), a container coupled to the book (pocket enclosed by means 40), a puppet coupled to the book (read onto animate object 39). A front cover (32) having an inside (32a) and outside face with a fastener coupled to the inside face (38), as required by claim 9, is shown in figure 6. A fastener being in the form of a hook and loop, as required by claim 10, is described in col. 4, lines 26-27.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaufman '748 in view of Solomon '521. Kaufman discloses a book containing most of the elements of the claims including with reference to claim 1, a book (2), a container coupled to the book (14), a puppet that can be stored in the container (read onto the manipulative described in col. 2, lines 62-64). A front cover (4), back cover (12) and spine (8) with the container being disposed in the spine of the book, as required by claim 6, is shown in figures 1 and 2 and described in col. 4, lines 5-10. A container



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having a substantially cylindrical shape, as required by claim 7, is described in col. 2, line 64.

Kaufman lacks the teaching of a puppet coupled to the book (via a string as required by claim 2) as required by claim 1. However, Solomon discloses a book, puppet and container combination, which teaches that it is known to couple a puppet (21) to a book (11) via a string (27). Therefore it would have been obvious to one having ordinary skill in the art, at the time of the claimed invention, to have provided a string coupling connection between the manipulative and book of Kaufman for the purpose of further securing the manipulative to the book.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cabrera et al '028. Cabrera fails to explicitly teach a flexible elastic as required by claim 5. However it would have been obvious to one having ordinary skill in the art, at the time of the claimed invention, to utilize a flexible elastic coupling means in the device of Cabrera for the purpose of attaching the container and puppet to a book since the examiner takes official notice of the equivalence of a flexible string and a flexible elastic member for their use in the attachment arts. Furthermore, the use of a flexible elastic member is considered to be a design choice since applicants do not disclose any critical need or advantage to any particular attachment means (see applicants specification, page 5, paragraph 0016).



Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Solomon '521 in view of Cabrera et al '028. Although Solomon uses a string to couple his puppet to a book, the reference fails to teach the use of a cable, a cord or a flexible elastic as required by claims 3, 4, 5, respectively. However Cabrera teaches that it is known to couple a book to a puppet using a string, cable or cord (col. 4, lines 47-51). Therefore it would have been obvious to utilize any of the above coupling means to attach the puppet and book of Solomon since all of the above attachment means are known equivalents. Furthermore, the use of any of the above attachment means is considered to be a design choice since applicants do not disclose any critical need or advantage to any particular attachment means (see applicants specification, page 5, paragraph 0016).

#### ***Allowable Subject Matter***

Claims 11 and 12 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

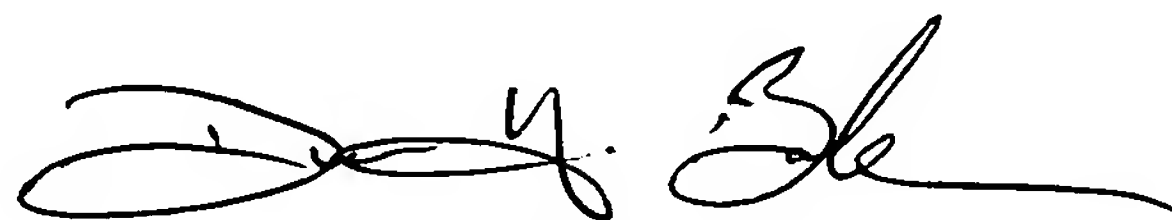
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dmitry Suhol whose telephone number is 703-305-0085. The examiner can normally be reached on Mon - Friday 9am-5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read 'Derris H. Banks', with a stylized flourish at the end.

DERRIS H. BANKS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700